

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH RAMIREZ,

Defendant and Appellant.

2d Crim. No. B267292
(Super. Ct. No. 2012038349)
(Ventura County)

Joseph Ramirez was subject to postrelease community supervision (PRCS) when he was arrested. (Pen. Code, § 3450 et seq.)¹ He had an informal probable cause hearing before a probation officer. Subsequently, the trial court found him in violation of PRCS. He contends that the trial court erred in revoking and modifying the terms of his PRCS because he did not execute a written waiver of counsel. We affirm.

¹ All further statutory references are to the Penal Code.

BACKGROUND

In March 2013, Ramirez pled guilty to carrying a concealed dirk or dagger (§ 21310) and admitted a prior prison term allegation (§ 667.5, subd. (b)). He was sentenced to two years four months in state prison.

In December 2013, Ramirez was released on PRCS.

In August 2015, Ramirez was arrested for violating his PRCS terms. The next day, Senior Deputy Probation Officer Venessa Meza held a probable cause hearing and found probable cause that Ramirez violated his PRCS conditions. The probation officer's "written report for revocation" notes that Ramirez was informed of the violations and was advised of his right to counsel. This was his third revocation proceeding.

The Ventura County Probation Agency filed a petition to revoke PRCS and scheduled a hearing date. Ramirez moved "to dismiss the petition." Citing *Williams v. Superior Court* (2014) 230 Cal.App.4th 636 (*Williams*) and *Morrissey v. Brewer* (1972) 408 U.S. 471 (*Morrissey*), he claimed the PRCS revocation procedure violated his statutory and due process rights.

The trial court denied the motion and held a revocation hearing. Ramirez's counsel acknowledged he "signed a waiver." The court found Ramirez in violation and ordered him to serve "[t]he 60 days he signed for" with credit of 19 days.

DISCUSSION

Ramirez contends that the trial court's order revoking PRCS should be vacated because he did not execute a written waiver of counsel as required by sections 1203.2, subdivision (b)(2) and 3455, subdivision (a). But Ramirez did not raise this claim in the trial court. Ramirez raised general

constitutional issues, but not this specific claim. He contended that (1) he did not have a probable cause hearing that complied with *Morrissey* standards, (2) the PRCs process does not comply with the procedures and time limits set forth in *Williams* for parole revocations, and (3) probation sought to obtain waivers before filing the petition to revoke, instead of after. Issues on appeal are forfeited where not initially raised in the trial court. (*People v. Vines* (2011) 51 Cal.4th 830, 867; *People v. Hartshorn* (2012) 202 Cal.App.4th 1145, 1151.)

Moreover, the record here does not support Ramirez's claim that he did not sign a written waiver of counsel. Instead, it shows the opposite. Ramirez was informed in writing of the violations and advised of his right to counsel. At the hearing, Ramirez's counsel said that "Mr. Ramirez is here and is not aware that he had apparently, without benefit of counsel, signed a waiver." At the conclusion of the hearing, the court imposed "[t]he 60 days [Ramirez] signed [up] for."

Ramirez has the burden of demonstrating error. (*People v. Gamache* (2010) 48 Cal.4th 347, 378; see *In re Raymundo B.* (1988) 203 Cal.App.3d 1447, 1452 ["it is the appellant's burden to provide an adequate record on appeal"]; *People v. Clifton* (1969) 270 Cal.App.2d 860, 862 ["error is never presumed, but must be affirmatively shown, and the burden is upon the appellant to present a record showing it, any uncertainty in the record in that respect being resolved against him"].) He has not done so.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

PERREN, J.

Gilbert A. Romero, Judge

Superior Court County of Ventura

Wayne C. Tobin, under appointment by the Court of
Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A.
Engler, Chief Assistant Attorney General, Lance E. Winters,
Senior Assistant Attorney General, Margaret E. Maxwell,
Supervising Deputy Attorney General, and Thomas C. Hsieh,
Deputy Attorney General, for Plaintiff and Respondent.